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FISCAL IMPACT STATEMENT

LS 6185
BILL NUMBER: HB 1038

NOTE PREPARED: Nov 15, 2008
BILL AMENDED:

SUBJECT: Transfer Fees.

FIRST AUTHOR: Rep. Van Haaften
FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: **GENERAL**
 X DEDICATED
 FEDERAL

IMPACT: State

Summary of Legislation: The bill voids certain rules adopted by the Indiana Horse Racing Commission (IHRC) and the Indiana Gaming Commission (IGC) concerning the transfer of ownership interests in pari-mutuel horse racing meeting permits and riverboat owners' licenses. The bill prohibits the IHRC and the IGC from: (1) imposing fees that are not authorized by statute upon the parties to a transfer of ownership interests; and (2) making the approval of a proposed transfer of ownership interests contingent upon the payment of any amount not authorized by statute. The bill codifies a noncode provision enacted in 2005 prohibiting the IGC from imposing transfer fees by rule and repeals the 2005 noncode provision.

Effective Date: Upon passage.

Explanation of State Expenditures: *Summary-* The bill voids rules adopted by the Indiana Gaming Commission and the Indiana Horse Racing Commission that provide for payments to be made to the state by persons transferring an ownership interest in a casino license, a license to conduct slot machine gambling at a horse racetrack, a supplier's license, or parimutuel racing permit.

Any future fiscal implications of the bill are indeterminable because: (1) the frequency of future ownership transfers is unpredictable; (2) the rules are unclear as to the extent that payments will be required in connection with future ownership transfers; and (3) the rules are unclear as to the magnitude of any required payments.

Background Information - The bill does the following:

(1) Voids rules adopted by the IHRC and the IGC that make approval of an ownership transfer involving a

parimutuel racing permit or casino license subject to (a) consideration by the IHRC or IGC of the economic benefit derived by the person transferring the permit or license; and (b) the state receiving either voluntary or involuntary payments from the person transferring the permit or license.

(2) Voids a rule adopted by the IGC on April 21, 2005, concerning the imposition of a transfer fee on the transfer of a riverboat casino license or operating permit.

(3) Prohibits the IHRC or IGC from imposing ownership transfer fees not authorized by the Riverboat Gaming Law, the Parimutuel Wagering Law, or the Gambling Games at Racetracks Law.

The IHRC rule (amending 71 IAC 11-1-13(d)) effective June 8, 2007, amended the rules relating to transfers of parimutuel racing permits to stipulate that “[i]n making a determination whether to authorize and approve either a proposed nominal or substantial change in ownership, the [IHRC] will consider the extent to which the state would share in any monetary payment to or economic benefit realized by the person divesting the ownership interest.” Only one payment under this rule has been made to date. LHT Capital, LLC paid \$9 M to the IHRC in August 2007 to obtain approval of its transfer of a 34.34% share of Indiana Downs racetrack to Oliver Racing, LLC.

The IGC emergency rules (amending 68 IAC 5-1-2 and 68 IAC 5-2-2) amended the rules relating to transfers of riverboat casino licenses, licenses to conduct slot machine gaming at horse racetracks, and supplier’s licenses to stipulate that “[i]n determining whether to approve a transfer of an ownership interest under this rule, the commission will consider the extent by which the state would share in any monetary payment to or economic benefit realized by the person divesting the ownership interest.” The emergency rules were first effective on June 13, 2007, and were adopted again effective September 13, 2007, December 7, 2007, and March 24, 2008. No payments have been made under this rule.

Explanation of State Revenues:

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: Indiana Horse Racing Commission; Indiana Gaming Commission.

Local Agencies Affected:

Information Sources:

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